

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

JOHN UTESCH,

Plaintiff,

v.

**LANNETT COMPANY, INC., ARTHUR P.
BEDROSIAN, and MARTIN P. GALVAN,**

Defendants.

Civil Action

No. 2:16-cv-05932-WB

ORDER

AND NOW, this 20th day of OCTOBER, upon consideration of the Report of the Special Master as to Plaintiffs' Motion to Compel Production of Documents in Response to Plaintiffs' Amended First Request for the Production of Documents to Defendants (the "Requests"), **IT IS ORDERED** that:

1. Defendants shall search for and produce all documents responsive to Plaintiffs' **Request 20** and **Request 23**, in accordance with the terms and parameters set forth in Defendants' July 12, 2021 Letter.

2. Specifically, for **Request 20**, as set forth in Defendants' July 12, 2021 Letter, Defendants shall search custodians (1) Kevin Smith, (2) Robert Foley, (3) Tracy Sullivan (DiValerio), (4) Lauren Carotenuto, (5) Grace Wilks, (6) Justin McManus, and (7) Richard Matchett, during the date range of January 1, 2013 through January 31, 2018, inclusive, with the following search terms:

apexus* w/5 Coalition OR "api meeting" OR ("bilo winn-dixie" w/5 "sales planning meeting") OR ((bpc w/5 conference) or "business partners conference") OR "cardinal

managers meeting” OR (cardinal w/5 “business partners exchange”) OR (cardinal w/5 “trade show”) OR (cardinal w/5 RBC) OR (cardinal w/5 “business conference”) OR (“chain drug consortium” w/5 conference) OR (valuetrak w/5 training) OR “cvs caremark classic” OR ((cvs or caremark) w/5 (conference OR “trade show”)) OR “cvs charity classic” OR “retail pharmacy generics” OR “generic pharmacy meeting” OR (epic w/5 (“trade show” OR “stockholders meeting” OR “stockholders mtg”)) OR ((esi or “express scripts”) w/5 conference) OR “pharmaceutical outcomes conference” OR (harvard w/5 (meet* or conference or expo*)) OR (harvard w/5 golf) OR (“fruth pharmacy” w/5 Tournament) OR (“fw kerr” w/5 tournament) OR ((jdrf OR “rite aid”) w/5 “golf classic”) OR (“diabetes organization” w/5 “gold classic”) OR (“nc mutual” w/5 (golf OR tournament) OR “gerimed annual meeting” OR “ceo roundtable” OR “heb pharmacy conference” OR “essensa national meeting” OR ((ipc or “independent pharmacy cooperative”) w/5 conference) OR (masters w/5 (golf OR tournament)) OR (mckesson w/5 ideashare) OR “medassets healthcare business summit” OR “national conference” OR “days of summer” OR (mpha w/5 (convention or “trade show”)) OR “red oak meeting” OR (topco w/5 “super show”))

3. In addition, for **Request 20**, as set forth in Defendants’ July 12, 2021 Letter, Defendants shall search custodians (1) Tracy Sullivan (DiValerio) and (2) Kevin Smith, during the date range of January 1, 2013 through January 31, 2018, inclusive, with the following search terms:

(“american burn association” OR (“american society of clinical oncologists” or asco) OR “american society of health-system pharmacists” OR amerinet OR apci OR (cshp or “california society of health-system pharmacists”) OR Dakota Drug OR (“drogeria bentances” or “drogueria betances”) OR (“hacienda cafetalera”) OR EPPS OR (“Federation of American Hospitals” or FAH) OR (“florida state society of health-system pharmacists” or fshp) OR (“georgia society of health system Pharmacists” or gshp) OR giant eagle OR “business and leadership conference” OR health connect partners OR HDA* OR (HISCI or “healthcare industry supply chain institute”) OR (NPF or “National Pharmacy Forum” or “supply chain association”) OR (higpa or “health industry purchasing group”) OR (hsca or “healthcare supply chain association”) OR (imco or “independent medical co-op”) OR (“Independent Pharmacy Cooperative” or IPC*) OR (“indiana pharmacists alliance”) OR innovatix OR (“louisiana society of health-system pharmacists” or lshp) OR (“medassets healthcare program”) OR Meijer OR miami luken OR MMCAP OR (mshp or “maryland society of health-system pharmacy”) OR (mssh or “mississippi society of health-system pharmacists”) OR NACDS OR (NCPA or “National Community Pharmacists”) OR (“national home infusion association” or nhia) OR national pharmacy forum OR (NPPA or “national pharmacy purchasing association”) OR (ncpdp or “national council for prescription drug programs”) OR (pln or “pharmacy learning network”) OR (pshp or “pennsylvania society of health-system pharmacists”) OR (tshp or “texas society of health-system pharmacists”) OR (uhc or “university healthsystem consortium”) OR (vshp or “virginia society of health system pharmacists”) OR (wakefern or “shoprite pharmacy”) OR “association for accessible medicine” OR “National Association of Chain Drug Stores” OR ECRM OR “efficient collaborative retail marketing” OR “electronic customer relationship management” OR “generic

pharmaceutical association” OR “health distribution management association” OR “Healthcare Distribution Alliance” OR “minnesota multistate contracting alliance for pharmacy” OR “Multistate Contracting Alliance” OR “total store expo” OR AAM OR ashp OR BCL OR BLC OR CMC OR GPHA OR HDMA) W/5 ((expo* OR party OR show OR event OR meeting OR conference OR exhibition OR mtg OR session OR forum) AND (meet* OR attend* OR catch OR invit* OR dinner OR lunch OR brunch OR breakfast OR “go out” OR “girls night out” OR “coffee” OR drink* OR talk OR chat OR seeing* OR “happy hour”))

4. For **Request 23**, as set forth in Defendants’ July 12, 2021 Letter, Defendants shall search the calendar files of (1) Tracy Sullivan (DiValerio), (2) Kevin Smith, (3) Justin McManus, (4) Arthur Bedrosian, (5) Martin Galvan, (6) Robert Foley, (7) Michael Block, and (8) William Giannone, during the date range of January 1, 2013 through January 31, 2018, inclusive, for responsive calendar entries using the names of competitors for Doxycycline Monohydrate, Digoxin, Levothyroxine, Acetazolamide, and Ursodiol.

5. For **Requests 1 and 7**, Defendants shall search custodians (1) Adriana Arismendi, (2) Michael Landis, (3) Arthur Bedrosian, (4) Robert Foley, (5) Martin Galvan, (6) Marsha Keefe, (7) William Schreck, and (8) Kristie Stephens, during the date range of January 1, 2013 through January 31, 2018, inclusive, with the following search terms:

- (“Congressman” OR “House of Representatives” OR “Senate” OR “Member of Congress” OR (Representative w/5 Congress) OR (participantdomains::“@help.senate.gov”) OR “Senator” OR (participantdomains::“@mail.house.gov”) OR “Van Hollen” OR “Cummings” OR “Sanders” OR (Committee w/5 (“Government Reform”)) OR (Committee w/3 health) OR (Subcommittee w/5 health) OR (Honorable w/5 (Issa or Harkin or Alexander or Burr)) OR “congressional inquiry” OR “attorney general response”) AND ((market OR price OR competitor*) w/10 (generic AND (drug* OR pharmaceutical* OR prescription*)))
- (investigation OR subpoena) within the subject line of emails

6. For **Requests 10 and 11(a)**, Defendants shall search custodians (1) Martin Galvan, (2) Robert Foley, (3) Tracy Sullivan (DiValerio), (4) Arthur Bedrosian, (5) Kevin Smith, (6) Justin McManus, (7) Lauren Carotenuto, (8) William Giannone, (9) Michael Block, (10) William Schreck, (11) Michael Bogda, (12) Grace Wilks, (13) Richard Matchett, and (14) Patricia

Adamson, during the date range of January 1, 2013 through January 31, 2018, inclusive, with the following search terms:

(heritage OR mylan OR par OR impax* OR global OR abbvie OR west* OR sun OR Sandoz OR pfizer OR taro OR (Epic NOT (“Epic Pharmacy” OR “Epic Pharmacies” OR (Epic w/3 (fail OR win OR victory OR loss))) OR actavis OR teva* OR mayne OR gsk OR glaxo* OR covis) AND

(doxy* OR digox* OR (levo* not w/1 (Levofloxacin OR “Levo-Dromoran” OR Levorphanol or Levobunolol OR Levocetirizine OR Levodopa OR Levofloxacin OR Levoleucovorin OR Levomilnacipran OR Levora OR Levorphanol OR Levophed OR Levocetirizine OR Levoflox OR Levodo OR “Carbido/Levo/Enta”)) OR Acetaz* OR Urso*) AND

- (price* OR pricing* OR share OR agree* OR promise* OR “give up” OR customer*) OR
- (“on board” OR “with us” OR “want us” OR “wants us” OR propos* OR agree* OR suggest* OR “give up” OR “come after” OR “upset”) OR
- (((share w/3 (let OR pick OR add* OR agree OR chill OR irr* OR ration* OR reason* OR resp* OR challeng* OR compet* OR dis* OR fair OR giv* OR gave* OR rais* OR trad* OR alloc*))

7. In addition, for **Requests 10 and 11(a)**, Defendants shall search during the date range of January 1, 2013 through January 31, 2018, inclusive, the following communications:

- From: Tracy Sullivan or Justin McManus

To: Kevin Smith OR Justin McManus OR Robert Foley OR Tracy Sullivan

Including: nisha OR patel OR anne OR sather OR susan OR knoblauch OR gina OR Grasmuglia OR robin OR crystal OR scott OR kristy OR zydus OR jodi OR weber OR Erika

- From: Arthur Bedrosian or Kevin Smith

To: Arthur Bedrosian OR Kevin Smith OR Robert Foley OR Michael Block

Including: ara OR aprahamian OR Perfetto OR “g.p.” OR singh OR nesta

- From: William Giannone OR Michael Block OR Robert Foley

To: Arthur Bedrosian OR Kevin Smith OR William Giannone OR Michael Block OR Robert Foley OR Martin Galvan

Including: boyer OR kurt OR orlofski OR marc OR vogel OR baylor OR boothe OR rogeron OR wesol* OR doresy OR mitch* OR blashinsky OR hatosy OR scott OR brick OR maureen OR barrett OR nesta

8. For **Request 12**, Defendants shall search custodians (1) Robert Foley, (2) Martin Galvan, (3) Tracy Sullivan (DiValerio), (4) Justin McManus, (5) Arthur Bedrosian, (6) Kevin Smith, (7) Lauren Carotenuto, (8) Michael Block, (9) William Schreck, (10) Grace Wilks, (11) Michael Bogda, (12) Breanna Stillman, and (13) Rita Augustine, during the date range of January 1, 2013 through January 31, 2018, inclusive, with the following search terms:

(doxy* OR digox* OR acetaz* OR (levo* NOT w/1 (Levofloxacin OR “Levo-Dromoran” OR Levorphanol OR Levobunolol OR Levocetirizine OR Levodopa OR Levofloxacin OR Levoleucovorin OR Levomilnacipran OR Levora OR Levorphanol OR Levophed OR Levocetirizine OR Levoflox OR Levodo OR “Carbido/Levo/Enta”)) OR urso*) AND (increase* OR follow* OR match*)

9. For **Requests 13 and 15**, Defendants shall search custodians (1) Arthur Bedrosian, (2) Robert Foley, (3) Kevin Smith, (4) Tracy Sullivan (DiValerio), (5) Michael Block, (6) Chessa Rodarmer, (7) Justin McManus, (8) William Giannone, (9) Lauren Carotenuto, (10) Grace Wilks, (11) Richard Matchett, (12) Jolene McGalliard, (13) Adriana Arismendi, (14) Martin Galvan, and (15) Breanna Stillman, during the date range of January 1, 2013 through January 31, 2018, inclusive, with the following search terms:

(doxy* OR digox* OR acetaz* OR urso* OR (levo* NOT w/1 (Levofloxacin OR “Levo-Dromoran” OR Levorphanol OR Levobunolol OR Levocetirizine OR Levodopa OR Levofloxacin OR Levoleucovorin OR Levomilnacipran OR Levora OR Levorphanol OR Levophed OR Levocetirizine OR Levoflox OR Levodo OR “Carbido/Levo/Enta”))) AND

- (heritage OR mylan OR par OR impax* OR global OR abbvie OR west* OR sun OR sandoz OR pfizer OR taro OR actavis OR teva* OR upsher OR mayne OR gsk OR glaxo* OR covis OR (epic NOT (“epic pharmacy” OR “epic pharmacies” OR (Epic w/3 (fail OR win OR victory OR loss))))))

AND

- ((m/s OR market OR mkt OR share) AND (add* OR adjust* OR agree* OR alloc* OR challen* OR chang* OR declin* OR decreas* OR divid* OR drop OR disrupt*

OR disturb OR divid* OR expan* OR fair OR fix OR gain* OR game OR heavy OR high* OR hold* OR increase* OR lead* OR low* OR more OR new OR “pick up” OR polic* OR rais* OR relinquish* OR retain OR secure OR shift* OR split* OR tak* OR allocat* OR aim* OR compet* OR compromise* OR even OR fair OR fix* OR forecast* OR game* OR gave OR giv* OR goal OR “let w/5 have” OR “mind* OR opportunity* OR position* OR priorit* OR strateg* OR target* OR chill OR irritation* OR rational* OR reasonable OR respons* OR desir* OR feedback OR hear* OR look* OR need* OR notif* OR piece* OR seek OR steal OR tell OR underdev* OR underrep* OR upset OR yield))

- ((cost OR demand OR supply) w/5 (blame OR decreas* OR increase* OR short* OR surplus OR “tell them”))
- ((bid OR offer OR price OR quote) w/5 (“stand down” OR steal OR “tell them” OR unable OR walk))

10. For **Requests 21 and 22**, Defendants shall search custodians (1) Arthur Bedrosian, (2) Chessa Rodarmer, (3) Robert Foley, (4) Michael Block, (5) Tracy Sullivan (DiValerio), (6) William Giannone, (7) Kevin Smith, (8) Justin McManus, (9) Lauren Carotenuto, (10) Grace Wilks, (11) Adriana Arismendi, (12) Martin Galvan, and (13) Breanna Stillman, during the date range of January 1, 2013 through January 31, 2018, inclusive, with the following search terms:

(doxy* OR digox* OR (levo* NOT w/1 (Levofloxacin OR “Levo-Dromoran” OR Levorphanol OR Levobunolol OR Levocetirizine OR Levodopa OR Levofloxacin OR Levoleucovorin OR Levomilnacipran OR Levora OR Levorphanol OR Levophed OR Levocetirizine OR Levoflox OR Levodo OR “Carbido/Levo/Enta”)) OR Acetaz* OR Urso*) AND (market OR pric* OR compet*) AND (minutes OR (meeting w/3 notes) OR (meet* w/5 (discuss* OR talk OR plan)) OR agenda OR topics OR talking OR points)

11. Defendants shall begin a rolling production of responsive documents within 21 days of this Order, with substantial completion of the production to be completed within 75 days of this Order. At the time of substantial completion of the production, Defendants should inform Plaintiffs and the Special Master whether any additional productions remain, and if so, provide a good faith estimate for final completion of production of all responsive documents.

12. With respect to the searches set forth above, Defendants may cull from the searches any documents already produced to Plaintiffs on October 7, 2019, as part of the reproduction of those documents produced to the State of Connecticut Office of the Attorney General, and documents produced to Plaintiffs as part of the reproduction of documents produced in the generic drug antitrust MDL, by removing the documents from the search pool. Defendants also may cull from the searches any documents that contain four or more of the relevant drugs, as identified by the following search terms:

(doxy* AND digox* AND acetaz* AND levo*) OR
 (doxy* AND digox* AND acetaz* AND urso*) OR
 (doxy* AND digox* AND acetaz* AND (bac OR bac1*)) OR
 (doxy* AND digox* AND levo* AND urso*) OR
 (doxy* AND digox* AND levo* AND (bac OR bac1*)) OR
 (doxy* AND digox* AND urso* AND (bac OR bac1*)) OR
 (doxy* AND acetaz* AND levo* AND urso*) OR
 (doxy* AND acetaz* AND levo* AND (bac OR bac1*)) OR
 (doxy* AND acetaz* AND urso* AND (bac OR bac1*)) OR
 (digox* AND acetaz* AND levo* AND urso*) OR
 (digox* AND acetaz* AND levo* AND (bac OR bac1*)) OR
 (digox* AND acetaz* AND urso* AND (bac or bac1*))

Defendants also may cull any of the following documents, identified by title, subject or key words:

- Walgreens Underinsured Items
- Insurance Non-Compliance Notice
- Global Rebate
- Pricing Amendment
- Status of Pending Lannett Applications
- Preliminary Award Notification
- IPC Purchase Order
- Daily Booking Report
- Kaiser Permanente Purchase Order
- Auburn Pharmaceutical Purchase Order
- Jerome Stevens Invoice
- Weekly Rite Aid Generic Cost Comparison Data
- Status Report For Chargebacks

BY THE COURT:

/s/Wendy Beetlestone, J.

WENDY BEETLESTONE, J.